

BATEMAN AGREEMENT

THIS AGREEMENT, made this 1st day of July, 2004, by and between CITY OF SUNNYVALE., with principal offices located at 456 West Olive Avenue, Sunnyvale, CA 94086 (hereinafter referred to as "Client"), and COMPASS GROUP USA, INC., by and through its BATEMAN division, a Delaware corporation, with principal offices at 2400 Yorkmont Road, Charlotte, North Carolina 28217 (hereinafter referred to as "Bateman").

WITNESSETH:

WHEREAS, Client desires to avail itself of Bateman's food services; and

WHEREAS, Bateman desires to perform such services for Client;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto, intending to be legally bound, hereby agree as follows:

SECTION 1. CLIENT'S GRANT TO BATEMAN

Client grants to Bateman, as an independent contractor, the exclusive right to operate a standard contract for congregate meal service to the elderly and shall deliver meals to the Senior Center located at 550 East Remington Drive, Sunnyvale, California 94088 (such location hereinafter referred to as the "Premises"), and the exclusive right to provide congregate meal service (hereinafter referred to as "Services").

SECTION 2. BATEMAN'S RESPONSIBILITIES

A. Pursuant to the provisions of this Agreement, Bateman will operate and manage its Services hereunder at such locations as shall be agreed upon, keep its Services adequately serviced and supplied with appropriate merchandise.

B. Bateman shall provide a central kitchen for the production of meals pursuant to this Agreement, and shall deliver such meals the Premises. Bateman shall provide all equipment required for the provision of services, and all equipment used to serve and transport food shall be approved by the National Science Foundation (NSF). Food storage facilities shall maintain a temperature of 140 degrees Fahrenheit or more for hot food and 40 degrees Fahrenheit or less for cold food. Temperatures of meals shall be checked daily and recorded before leaving the kitchen. Temperature records shall be kept for one year from the date they are made. All food handlers must wear hair nets, gloves and aprons where appropriate. Cleaning supplies shall not be stored with food or paper products. "No Smoking" signs shall be posted in all food handling areas.

C. Bateman will plan menus in a minimum of four-week cycles. Such menus will be planned in accordance with Client's requirements. Bateman agrees that menu analysis for congregate meals will be planned according to a weekly menu component pattern. Such menus will be submitted to Client at least three weeks prior to initial use in order that Client may

determine whether the meals described in the menus comply with dietary standards set forth in State, Federal and County guidelines. Menus will be distributed to participants at least one week in advance of use.

D. Bateman agrees to pay all Federal, state and local taxes which may be assessed against Bateman's equipment or merchandise while in or upon the Premises, as well as all Federal, state and local taxes assessed in connection with the operation of its Services upon the Premises. Bateman also agrees to comply with all Federal, state and local laws and regulations governing the preparation, handling, and serving of foods, and to procure and keep in effect all necessary licenses, permits, and food handler's cards required by law, and to post such permits within the service areas in a prominent place as required by law. All costs in connection with such taxes, licenses, permits, and food handler's cards, shall be a Cost of Business and will be charged to the operation of the business. Bateman agrees to comply with applicable Federal, state and local laws and regulations pertaining to wages and hours of employment.

E. Bateman shall hire all employees necessary for the performance of this Agreement. Upon being hired, such employees shall be subject to such health examination as proper city, state, or Federal authority may require in connection with their employment. All persons employed by Bateman will be the employees of Bateman, and not of the Client, and will be covered by employee dishonesty coverage. Bateman, in performing work required by this Agreement, shall not discriminate against any employee or applicant for employment because of race, creed, sexual orientation, gender, marital status, color, national origin, or age, in violation of Federal, state or local law.

F. Bateman agrees to maintain conditions of sanitation and cleanliness. Bateman further agrees that Bateman's facilities and services, as well as the food prepared by Bateman, shall at all times be subject to inspection by an authorized, capable person or persons designated by the Client.

G. All records shall be kept on file by Bateman for a period of three (3) years from the date the record is made, and Bateman shall, upon reasonable notice, give the Client or its authorized representative the privilege at a reasonable time of inspecting, examining and auditing, during normal business hours, such of Bateman's business records which are directly relevant to the financial arrangements set forth in Exhibit A. The cost of such inspection, examination, and audit will be at the sole expense of the Client and such inspection, examination and audit shall be conducted at the Bateman locations where said records are normally maintained.

H. Bateman will provide a Bateman staff member who will be available for up to four (4) hours each weekday to provide assistance to the Client at the Premises. Bateman agrees that Bateman's employees and agents shall comply with and observe all applicable rules and regulations concerning conduct on the Premises which Client imposes upon Client's employees and agents.

SECTION 3. CLIENT'S RESPONSIBILITIES

A. Client shall, without cost to Bateman, provide the necessary sites for the distribution of meals pursuant to this Agreement. Client shall keep such sites maintained in a safe operating condition such that no Bateman employee is exposed to or subjected to any unsafe situation which would violate the Occupational Safety and Health Act, including but not limited to, the general duty and the specific duty clauses thereof, or any other similar Federal, state or local law or regulation

B. Client shall be responsible for determining the nutritional assessment/needs of persons to receive meals under this Agreement, and shall maintain and keep all such related records.

C. Client agrees that it will not hire or permit the employment of any professional or management employee of Bateman in any position in any of Client's locations unless the employee successfully competes for a position through the Client's standard recruitment process. Client shall not impose any regulation on Bateman's employees not imposed on Client's employees.

SECTION 4. FINANCIAL ARRANGEMENTS

The financial arrangements of this Agreement are set forth in Exhibit A which is attached hereto, incorporated herein and made a part hereof as if fully set forth in this Agreement.

SECTION 5. INDEMNIFICATION; INSURANCE

A. Bateman shall indemnify Client against any physical damage to tangible property, bodily injury, sickness or death caused by Bateman's negligent acts or omissions or the negligent acts or omissions of Bateman's agents or employees arising out of the consumption or use of the Products sold; provided, however, that nothing contained herein shall require Bateman to indemnify Client for acts or omissions arising out of the negligence of Client, its agents or employees.

B. Bateman's obligation to hold the Client harmless pursuant to this Agreement shall be dependent upon Client promptly notifying Bateman in writing of any such claims or lawsuits against either Bateman or Client, but in no event later than fifteen (15) days after the date the Client first received notice of such claim or lawsuit, and, forwarding to Bateman the summons, complaint and all other documents which relate to said claim or lawsuit no later than fifteen (15) days after the date the Client was served with such documents. Failure of Client to notify Bateman of any such claim or lawsuit within said fifteen (15) day period shall relieve Bateman of any and all responsibility and liability under this Agreement to indemnify and hold Client harmless. Client will cooperate with Bateman and do nothing to prejudice Bateman's rights without Bateman's written permission.

C. In order to secure Bateman's obligation to indemnify the Client, Bateman shall procure and maintain the following insurance throughout the life of the Agreement from an admitted insurer authorized to operate in California:

(1) Comprehensive Automobile Bodily Injury Liability and Property Damage Liability Insurance, with combined single limits of Two Million (\$2,000,000) Dollars;

(2) Commercial General Liability and Property Damage Liability Insurance, with combined single limits of One Million Dollars (\$1,000,000). The insurance shall include protection against claims arising from bodily and personal injury and damage to property, resulting from Bateman's or Client's operations; coverage on an "occurrence" basis; broad form property damage liability; and notice of cancellation to Client at least thirty (30) days prior to the cancellation effective date. The following endorsements shall be attached: complete contractual liability; the Client shall be named as additional named insured with respect to the services to be performed under this Agreement; and coverage shall be primary insurance so that no other insurance effected by the Client will be called upon to contribute to a loss under this coverage.

Bateman shall, if requested, furnish Client a Certificate of Insurance evidencing such coverage as respects Bateman's operation on the Premises. The cost of the above insurance will be a Cost of Business and shall be charged to the operation of the business.

D. Bateman will procure Worker's Compensation and employee liability insurance to cover its employees at the Premises. The amount of insurance shall not be less than One Million Dollars (\$1,000,000) per accident for bodily injury and disease.

E. Bateman and Client mutually agree that they will keep their respective property insured and will waive rights of subrogation of their respective insurance companies to recover losses from the other party. Bateman and Client further agree to waive their rights of recovery from each other for deducted or self-insured property losses.

SECTION 6. COMMENCEMENT AND TERMINATION

This Agreement shall become effective as of the 1st day of July, 2004 for an initial term of ninety (90) days. This Agreement shall automatically renew for a second term of ninety (90) days. Thereafter, this Agreement shall automatically renew for an additional term of thirty (30) months unless sooner terminated as herein provided.

Either party may terminate this Agreement with or without cause by providing notice of said termination in writing thirty (30) days prior to the proposed termination date. If Client funding is reduced or ceased, Client shall have the right to terminate this Agreement

immediately; provided, however, that Client shall give prompt notice of such funding reductions to Bateman and shall pay Bateman for all services performed up until the date such notice is given.

If either party shall refuse, fail or be unable to perform or observe any of the terms or conditions of this Agreement for any reason other than Excused Performance reasons stated in Section 9 hereof, the party claiming such failure shall give the other party a written notice of such breach. If, within thirty (30) days from such notice the failure has not been corrected, the injured party may cancel the Agreement effective thirty (30) days after the end of said thirty (30) day period.

Client further agrees that if, upon notification in writing by Bateman, Bateman's Services are not returning a fair and equitable profit, Client and Bateman fail to agree upon new financial arrangements satisfactory to Bateman within thirty (30) days of said notification, this Agreement may thereupon be terminated by Bateman effective ten (10) days after the end of said thirty (30) day period.

Bateman may terminate this Agreement if the Client fails to pay when due the full amount of any amounts owed under this Agreement.

The termination of this Agreement shall not affect the rights, privileges, liabilities and/or responsibilities of the parties as they exist as of the effective date of termination and the parties shall cooperate fully with each other during the term of the contract and subsequent to the termination in order to ascertain and satisfy the liabilities of either party to the other.

SECTION 7. INDEPENDENT CONTRACTOR RELATIONSHIP

It is mutually agreed and understood that an independent contractor relationship be and is hereby established under the terms and conditions of this Agreement, that employees of Bateman are not nor shall they be deemed to be employees of Client and that employees of Client are not nor shall they be deemed to be employees of Bateman.

SECTION 8. BATEMAN'S TITLE TO EQUIPMENT

Where applicable, all equipment installed by Bateman pursuant to the provisions of this Agreement is and shall at all times remain the property of Bateman, with title vested in Bateman, and Client shall have no property interest in said equipment.

SECTION 9. EXCUSED PERFORMANCE

In case performance of any terms or provisions hereof (other than the payment of monies) shall be delayed or prevented because of compliance with any law, decree, or order of any governmental agency or authority, either local, state, or federal, or because of riots, war, public disturbances, strikes, lockouts, differences with workmen, fires, floods, Acts of God, or any other reason whatsoever which is not within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence said party is unable to prevent, the party

so suffering may at its option suspend, without liability, the performance of its obligations hereunder (other than the payment of monies) during the period such cause continues, and extend the term of this Agreement for the period of such suspension of the performance of duties hereunder.

SECTION 10. PROPRIETARY AND CONFIDENTIAL INFORMATION

During the term of this Agreement, Client may have access to or acquire proprietary and confidential information relating to Bateman's business, including, but not limited to, information on Bateman's finances, pricing, potential and present customers, policy manuals, proprietary trade secrets, menus, recipes, guidelines and procedures, surveys, other data, compilations, techniques, financial data, trade secrets that are not generally known to the public, as well as computer software and programs relating to the provision of the Services and finances of Bateman (collectively, considered by Bateman to be, and hereinafter referred to as the "Proprietary and Confidential Information"). Client acknowledges that the Proprietary and Confidential Information is solely the property of Bateman and recognizes that Bateman considers such information to constitute trade secrets and confidential information of Bateman, and that Bateman holds that Client's knowledge of the Proprietary and Confidential Information enables Client to cause irreparable harm upon the disclosure of such Proprietary and Confidential Information. Client shall not use or appropriate for its own behalf or disclose or communicate, directly or indirectly, any Proprietary and Confidential Information to any individual, firm, company, or other entity or person in any manner whatsoever except to the extent required by law. Client or its employees shall not copy or reproduce in any media or remove from the Premises any Proprietary and Confidential Information, and Client, whenever possible, shall take all steps required by Bateman to protect such Proprietary and Confidential Information. The terms and provisions of this Section Ten shall survive the termination of the Agreement. Upon the termination of the Agreement, Client shall immediately terminate the use of any and all Proprietary and Confidential Information, including any computer software programs, and Client shall return any and all Proprietary and Confidential Information to Bateman immediately upon the termination.

SECTION 11. ASSIGNMENT

Neither Bateman nor Client may assign or transfer this Agreement, or any part thereof, without the written consent of the other party; provided, however, that Bateman may assign this Agreement, in whole or in part, to a parent or affiliated company. Bateman shall provide written notice to Client of any such assignment.

SECTION 12. ENTIRE AGREEMENT: WAIVER

This Agreement constitutes the entire Agreement between the parties with respect to the provision of Bateman's Services, and there are no other or further written or oral understandings or agreements with respect thereto. No variation or modification of this Agreement and no waiver of its provisions shall be valid unless in writing and signed by the duly authorized officers of Bateman and Client. This Agreement supersedes all other agreements between the parties for the provision of Bateman's Services on the Premises.

SECTION 13.

NOTICES

All notices to Client shall be addressed or faxed to it at:

Department of Parks and Recreation
Sunnyvale Senior Center
Attn: Patricia Lord
550 East Remington Drive
Sunnyvale, California 94088

and all notices to Bateman shall be addressed or faxed to it at:

Compass Group USA, Inc. d/b/a Bateman
3110 West Pinhook Road,
Suite 201
Lafayette, LA 70508

Facsimile No.: (337) 593-0434
Attention: Regional Vice President

with a copy to:

Compass Group USA, Inc.
2400 Yorkmont Road
Charlotte, North Carolina 28217
Facsimile No.: (704) 329-4010
Attention: General Counsel.

SECTION 14.

GOVERNING LAW

This Agreement shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals as of the day and year first above written.

CITY OF SUNNYVALE

By: Elaine Wesely
Name: Elaine Wesely
Title: Purchasing Officer
Date: 6-24-04

COMPASS GROUP USA, INC
by and through its BATEMAN division

By: Magi Brettler
Name: Magi Brettler
Title: Regional Vice President
Date: July 7, 2004

EXHIBIT A

FINANCIAL ARRANGEMENTS - PROFIT AND LOSS

I. MANUAL FOOD SERVICES/COST PER MEAL

Bateman will operate its manual food service at the Premises for its own account on a profit or loss basis. Bateman shall bear all losses in the event that receipts from the operation of its Services are less than Bateman's cost of business. Bateman shall be entitled to all profits in the event that the receipts from the operation of its manual food service are greater than Bateman's cost of business.

Bateman shall charge to Client a cost per meal of \$4.25. This cost per meal shall be based on certain assumptions and circumstances existing as of the date of this Agreement, including, but not limited to, the following: 1) Bateman shall serve an average of 75 meals per day (such average shall be calculated at the end of each calendar month). If at the end of each month, the average meal count does not meet or exceed the above-referenced number, Client shall pay to Bateman the deficit average amount multiplied by the above-referenced rate. Client shall pay said invoice amount to Bateman within thirty (30) days of receipt of the invoice by Client.

Bateman shall have the option to increase the cost per meal, and shall provide Client written notice of any such increase. Any such rate increase shall not exceed the percentage reflected in the Consumer Price Index – Food Away From Home, as measured for December of the current year. Rate increases shall be negotiated by May 1st and shall be implemented by July 1st.

II. BATEMAN'S ACCOUNTING TO CLIENT FOR MANUAL FOOD SERVICE

Bateman shall submit to Client within a reasonable time after the end of each accounting period an invoice showing the number of meals served and the total amount due Bateman. Client shall pay said invoice amount to Bateman within thirty (30) days of the date of the invoice.

III. CREDIT TERMS

In the event that said amounts set forth in said statements are not paid according to the terms hereof, or in the event that Bateman, in its sole discretion, determines that Client's credit has become impaired, Bateman shall have the option of either declining to continue its services hereunder except on a cash-in-advance basis until such time as credit has been re-established to Bateman's satisfaction, or terminating this Agreement immediately without any liability whatsoever to Bateman.

All costs of collection of past-due amounts, including but not limited to reasonable attorney's fees, shall be chargeable to and paid by the Client.